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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,755

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Franz Kauk

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EXAMINER

YI, STELLA KIM

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,755	<b>Applicant(s)</b> KAUK ET AL.	
	<b>Examiner</b> Stella Yi	<b>Art Unit</b> 1791	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 17-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over GOMOLL et al. (EP1030144) and in further view of WILSON (4,558,503).

Regarding Claims 17, 21-25, 29-33, 35-38, 40-43, 46, and 49, GOMOLL et al. discloses a refrigerator wall with supporting elements (33) (mounting elements) wherein a plastic inner liner (13) is fabricated to form the recess (receiving contour) (15) by a non-cutting moulding method such as a deep drawing process and a thermal insulation layer (12) is formed between the said inner liner and outer liner (11) ([0022] and Figure 3). GOMOLL et al. teach that the said plastic inner liner is fabricated with a recess (receiving contour) (15) (see Figure 3 and [0022]) which is shaped such that on at least three sides it at least partly corresponds to the outer contour of the element to be mounted (retaining element (33)), so that the element to be mounted can be received by the recess (receiving contour) (15) and the said retaining element (33) is inserted into the said recess space (15) (see Figure 3). No piercing of the inner wall of the refrigerator by screws or fastening means is taught by Gomoll as can clearly be seen in Figure 3.

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GOMOLL et al. teach there being a thermal insulation (12) between the said inner liner and outer liner (11) ([0022] and Figure 3) but is silent to foaming the said thermal insulation. However, WILSON discloses a method of assembling a refrigerator wherein the thermal insulation layer is injected between plastic inner liner and outer metal shell and undergoes a foaming operation and that such foaming forms cells which exhibit good thermal insulation characteristics (Col.2, lines 65-67 and Col.3, lines 1-5). WILSON teach during the polyurethane foaming operation gases are generated which exerts internal pressure and in many cases causes bulging or distortion of the lining (Col.3, lines 4-8). WILSON teach that the lining for where the door and food compartments will engage and be mounted to should be formed prior to the foaming operation (Col.3, lines 25-30) to enhance the structural integrity for the lining (Col.3, lines 41-45). Therefore, it would have been obvious to one of ordinary skill in the art to have modified GOMOLL et al.'s method of producing the mount arrangement to include the foaming of the thermal foam insulation as taught by WILSON in order to produce a good structural integrity for the thermal insulation and lining after the mount arrangement. Also, it would have been obvious to one of ordinary skill in the art to have substituted the foaming operation step taught by WILSON in the method of producing a mounting arrangement of GOMOLL et al. for the predictable results of forming a thermal foam insulation layer that exhibits good thermal insulation characteristics between the plastic inner liner and outer liner of the refrigerator of GOMOLL et al.

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In addition, it would have been obvious to one of ordinary skill in the art to have included the step of foaming of the thermal foam insulation of GOMOLL et al.'s after the insertion of the said element to be mounted because selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *See MPEP 2144 In re Burhans, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).*

Regarding Claims 18 and 44, GOMOLL et al. teach that the said recess (receiving contour) (15) is fabricated with an undercut such that it can at least partly enclose and fix the element to be mounted (see Figure 3).

Regarding Claims 19, 27-28, and 45, GOMOLL et al. discloses the said receiving contour comprising an abutment (21) in which a cup shaped groove (36) is snapped in place ([0022] and see Figure 4).

Regarding Claims 20, 26, 34, 39, 47, and 48, GOMOLL et al. discloses that the said retaining element (33) (mounting element) supports shelves and receptacles ([0024]-[0025]) (which are pull-out rails).

### ***Response to Arguments***

1. Applicant's arguments filed 12/28/2009 have been fully considered but they are not persuasive.

Applicant Argues:

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a) Banicevic does not, and cannot, describe pull-out rails mounted to an inner lining of a refrigerator by a receiving contour that can positively or non-positively retain said pull-out rails.

b) Gomoll's mounting configuration differs from the claimed configuration, in that the claimed configuration includes a receiving contour of the inner lining without any mounting accessories.

c) The retaining element (33) of Gomoll does not support trays or drawers in such a way that the trays or drawers can be pulled out.

d) Amended claim 17 is not disclosed or suggested by Gomoll or Wilson that is foaming of a thermal foam insulation after inserting an element to be mounted into a receiving contour of an inner lining of a wall.

Examiner respectfully disagrees with the Applicant's above arguments and would like to point out the reason(s) as discussed in the rejection:

a) Banicevic discloses a telescopically extendable guide rail that is mounted to one of the opposing liner side walls of the cabinet and through the liner of the drawer. The cabinet has a pair of reinforcing bracket member (receiving contour) located therein each having a side reinforcing portion extending adjacent a corresponding one of the guide rails and mounted to the liner side wall by fasteners passing through the guide rails and liner side walls. The said guide rail supports a pull out drawer [0026]. The said bracket member is mounted in the inner lining of the refrigerator and comprises a U-shaped guide (receiving contour) to receive an extended intermediate U-shaped guide bracket that is adapted to slide within the said bracket member [0029].

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Therefore, Banicevic does teach a receiving contour formed in the inner lining of the refrigerator.

b) Gomoll's configuration is not different from the claimed configuration. Like the claimed configuration, Gomoll's configuration illustrates a receiving contour or recess (15) made by a deep drawing process that receives the retaining element (33) (see Figure 3). Gomoll does not use screw connections or fastening means to mount the retaining element in the said recess. The accessories: rivet (18) and latch means (44) that the Applicant argues to be mounting accessories to mount the retaining element in the said recess (15) are not used to mount the retaining element in said recess (15). Figure 4 illustrates the retaining element by itself prior to being mounted in the recess. Gomoll teach that the rivet is part of the retaining element to be mounted in the recess. The latch means (14) is solely used for the purpose of creating the recesses (15) during deep drawing process [0022]. No piercing of the inner wall of the refrigerator by screws or fastening means is taught by Gomoll as can clearly be seen in Figure 3.

c) Gomoll teach that the said retaining element (33) serves as a support for the door shelf (50) and is releasable by the said retaining element which comprises a spring (45) to perform such action [0024]. Therefore, Gomoll teach the retaining element supports pull-out rails for the shelves.

d) GOMOLL et al. teach there being a thermal insulation (12) between the said inner liner and outer liner (11) ([0022] and Figure 3) but is silent to foaming the said thermal insulation. However, WILSON discloses a method of assembling a refrigerator wherein the thermal insulation layer is injected between plastic inner liner and outer

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metal shell and undergoes a foaming operation and that such foaming forms cells which exhibit good thermal insulation characteristics (Col.2, lines 65-67 and Col.3, lines 1-5). WILSON teach during the polyurethane foaming operation gases are generated which exerts internal pressure and in many cases causes bulging or distortion of the lining (Col.3, lines 4-8). WILSON teach that the lining for where the door and food compartments will engage and be mounted to should be formed prior to the foaming operation (Col.3, lines 25-30) to enhance the structural integrity for the lining (Col.3, lines 41-45). Therefore, it would have been obvious to one of ordinary skill in the art to have modified GOMOLL et al.'s method of producing the mount arrangement to include the foaming of the thermal foam insulation as taught by WILSON in order to produce a good structural integrity for the thermal insulation and lining after the mount arrangement. Also, it would have been obvious to one of ordinary skill in the art to have substituted the foaming operation step taught by WILSON in the method of producing a mounting arrangement of GOMOLL et al. for the predictable results of forming a thermal foam insulation layer that exhibits good thermal insulation characteristics between the plastic inner liner and outer liner of the refrigerator of GOMOLL et al.

In addition, it would have been obvious to one of ordinary skill in the art to have included the step of foaming of the thermal foam insulation of GOMOLL et al.'s after the insertion of the said element to be mounted because selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *See MPEP 2144 In re Burhans, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).*



***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella Yi whose telephone number is 571-270-5123. The examiner can normally be reached on Monday - Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SY

/Jeff Wollschlager/  
Primary Examiner, Art Unit 1791